

REMARKS

Favorable reconsideration of this application is respectfully requested, as amended. Claims 1-20 are currently pending.

Claims 1-2 and 6 have been amended, without disclaimer or prejudice, to change “ryolite” to “rhyolite and “malchite” to “malachite.” Other than correcting the indicated typographical errors, nothing relating to the scope of these Claims, as filed, has been changed. These typographical errors have also been corrected in various portions of the specification.

Claim 1 has also been amended, without disclaimer or prejudice, to change “rebuilt” to “rubellite.” Support for this amendment can be found in paragraph [0007] at page 3 of the specification, as well as in Claim 2 as filed. Other than correcting the indicated typographical error, nothing relating to the scope of this Claim, as filed, has been changed.

Claim 1 has also been amended to change the preamble from “naturally occurring element combination” to “combination of naturally occurring elements.” Support for this amendment can be found in paragraph [0012] at page 4 of the specification. Other than rephrasing the preamble, nothing relating to the scope of this Claim, as filed, has been changed.

For the purpose of clarity, and without disclaimer or prejudice, Claims 1 and 6 have also been amended to delete “pearl” from the listing of elements in the second group because “pearl” is already listed in the elements of the first group. A similar correction has been made in appropriate paragraphs in the specification.

A. Response the Rejection of Claim 1 under 35 U.S.C. § 112, Second Paragraph as Being Indefinite

At page 2 of the Office Action, Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Office Action alleges that: (1) “rebuilt with quartz” is unclear; (2) “ryolite” is known in the art as “rhyolite”; and (3) “malchite” is known in the art as “malachite.”

Responsive to this rejection, Claim 1 (as well as Claims 2 and 6 and the relevant portions of the specification) has been amended to correct the indicated typographical

errors. These amendment to Claims 1-2 and 6, as well as the specification, overcome this rejection under 35 U.S.C. § 112, second paragraph.

B. Response to Rejection of Claims 1-6 under 35 U.S.C. § 101 as Being Directed to Non-Statutory Subject Matter

At pages 2-3 of the Office Action , Claims 1-6 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Office Action alleges that Claim 1 is drawn to a product which is a “naturally occurring element combination” and that the Examiner interprets “naturally occurring element combination” to mean a “mixture that is found in nature.”

What the Office Action alleges is meant by this phrase in Claim 1 is a misreading of what was intended by Applicants. It was never the intention in Claim 1 to cover a “mixture that is found in nature.” Instead, Applicants intended Claim 1 to cover a combination of naturally occurring elements that is not “found in nature.” In fact, the combination recited in Claim 1, as well as the remaining Claims, does not exist in nature. Nonetheless, the preamble of Claim 1 has been amended to reflect and make clear this intended meaning.

For the foregoing reasons, this rejection of Claims 1-6 under 35 U.S.C. § 101 has been overcome.

C. Response to Rejection of Claims 1, 7-13, 16 and 18 under 35 U.S.C. § 102(b) as Anticipated by Docter ‘946

At pages 3-4 of the Office Action, Claims 1, 7-13, 16 and 18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,143,946 to Docter (Docter ‘946).

Briefly, Docter ‘946 discloses a therapeutic mat including a relatively elastic substrate, hydrogel connected to substrate and a plurality of microcrystals dispersed throughout the hydrogel. These microcrystals may include quartz, ruby, emerald, citrine, turquoise, amethyst, limestone, opal, zircon, agate, aventurine, tourmaline, amber, jade, sapphire, diamond and manganese. See col. 2, lines 63-67.

This rejection is respectfully traversed with respect to Claims 1, 7-13, 16 and 18, as amended and as currently presented. As amended, Claim 1 recites a combination

comprising: (1) at least one naturally occurring element selected from a first group consisting of charoite, pearl, rubellite, rubellite with quartz, and rhyolite; and (2) at least one naturally occurring element selected from a second group consisting of alexandrite, amazonite, amber, amethyst, aquamarine, aventurine, azurite, bloodstone, calcite, carelian, celestite, chrysoprase, citrine, copper, diamond, diopase, emerald, fluorite, garnet, gold, hematite, Herkimer diamond, jade, jasper, kunzite pink, lapis lazuli, lepidolite, malachite, manganese, moonstone, moss agate, obsidian, onyx, opal, peridot, pyrite, quartz crystal, rhodochrosite, rhodonite, rose quartz, ruby, rutiled quartz, smoky quartz, sugilite, sodalite, sapphire, silver, tiger eye, topaz, tourmaline, turquoise and zircon. By contrast, Docter '946 does not teach or suggest at least one naturally occurring element from the first group of Claim 1, with at least one naturally occurring element from the second group of Claim 1. In fact, Docter '946 does not teach any of the elements from the first group of Claim 1.

For the foregoing reasons, Claims 1, 7-13, 16 and 18, as amended or as currently presented, are novel and unobvious over Docter '946.

D. Response to Rejection of Claims 1 and 11-20 under 35 U.S.C. § 102(b) as Anticipated by Phybiosis Medicinal Clay

At pages 4-5 of the Office Action, Claims 1 and 11-20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Phybiosis Medicinal Clay Technical Specifications 1999 (Phybiosis Medicinal Clay).

Briefly, Phybiosis Medicinal Clay discloses a variety of medicinal clays, including yellow kaolin allegedly high in quartz content. Phybiosis Medicinal Clay is also alleged to disclose a medicinal clay of yellow kaolin in the form of a mask cream lotion that includes quartz and manganese.

This rejection is respectfully traversed with respect to Claims 1 and 11-20, as amended and as currently presented. As amended, Claim 1 recites a combination comprising: (1) at least one naturally occurring element selected from a first group consisting of charoite, pearl, rubellite, rubellite with quartz, and rhyolite; and (2) at least one naturally occurring element selected from a second group consisting of alexandrite, amazonite, amber, amethyst, aquamarine, aventurine, azurite, bloodstone, calcite, carelian, celestite, chrysoprase, citrine, copper, diamond, diopase, emerald, fluorite, garnet, gold,

hematite, Herkimer diamond, jade, jasper, kunzite pink, lapis lazuli, lepidolite, malachite, manganese, moonstone, moss agate, obsidian, onyx, opal, peridot, pyrite, quartz crystal, rhodochrosite, rhodonite, rose quartz, ruby, rutilated quartz, smoky quartz, sugilite, sodalite, sapphire, silver, tiger eye, topaz, tourmaline, turquoise and zircon. By contrast, Phybiosis Medicinal Clay does not teach or suggest at least one naturally occurring element from the first group of Claim 1, with at least one naturally occurring element from the second group of Claim 1. In fact, Phybiosis Medicinal Clay does not teach any of the elements from the first group of Claim 1.

For the foregoing reasons, Claims 1 and 11-20, as amended or as currently presented, are novel and unobvious over Phybiosis Medicinal Clay.

E. Response to Rejection of Claims 1, 3, 7-10, 16 and 18 under 35 U.S.C. § 102(b) as Anticipated by Ridgely *et al.* '138

At pages 5-6 of the Office Action, Claims 1, 3, 7-10, 16 and 18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,378,138 to Ridgely *et al.* (Ridgely *et al.* '138).

Briefly, Ridgely *et al.* '138 discloses stocking or hosiery that incorporates naturally occurring elements for healing various bodily ailments. These naturally occurring elements may include Alexandrite, Amazonite, amber, Amethyst, Aquamarine, Aventurine, Azurite, Bloodstone, Calcite, Carelian, Celestite, Chrysoprase, Citrine, Diamond, Diopase, Emerald, Fluorite, Garnet, Gold, Hematite, Herkimer Diamond, Jade, Jasper, Kunzite Pink, Lapis Lazuli, Lepidolite, Malchite, Moonstone, Obsidian, Onyx, Opal, Peridot, Pyrite, Quartz Crystal, Rhodochrosite, Rhodonite, Rose Quartz, Ruby, Rutilated Quartz, Smoky Quartz, Sugilite, Sodalite, Sapphire, Silver, tiger Eye, Topaz, Tourmaline, Turquoise, and Zircon. See col. 2, lines 14-28.

This rejection is respectfully traversed with respect to 1, 3, 7-10, 16 and 18, as amended and as currently presented. As amended, Claim 1 recites a combination comprising: (1) at least one naturally occurring element selected from a first group consisting of charoite, pearl, rubellite, rubellite with quartz, and rhyolite; and (2) at least one naturally occurring element selected from a second group consisting of alexandrite, amazonite, amber, amethyst, aquamarine, aventurine, azurite, bloodstone, calcite, carelian, celestite, chrysoprase, citrine, copper, diamond, diopase, emerald, fluorite, garnet, gold,

hematite, Herkimer diamond, jade, jasper, kunzite pink, lapis lazuli, lepidolite, malachite, manganese, moonstone, moss agate, obsidian, onyx, opal, peridot, pyrite, quartz crystal, rhodochrosite, rhodonite, rose quartz, ruby, rutilated quartz, smoky quartz, sugilite, sodalite, sapphire, silver, tiger eye, topaz, tourmaline, turquoise and zircon. By contrast, *Ridgely et al.* '138 does not teach or suggest at least one naturally occurring element from the first group of Claim 1, with at least one naturally occurring element from the second group of Claim 1. In fact, *Ridgely et al.* '138 does not teach any of the elements from the first group of Claim 1.

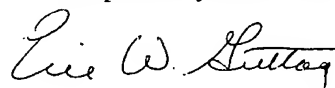
For the foregoing reasons, Claims 1, 3, 7-10, 16 and 18, as amended or as currently presented, are novel and unobvious over *Ridgely et al.* '138.

F. Conclusion

Claims 1-20, as amended or as currently presented, comply with the requirements of 35 U.S.C. § 112, second paragraph. Claims 1-20, as amended or as currently presented, define statutory subject matter under 35 U.S.C. § 101. Claims 1-20, as amended or as currently presented, are novel and unobvious over the art relied on in the Office Action. Accordingly, Claims 1-20, as currently presented and as amended, are in now condition for allowance.

If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Eric W. Gutttag at 513-856-7272.

Respectfully submitted,



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